

PUBLIC HEARING ON)
U.S. DEPARTMENT OF LABOR)
MINE SAFETY AND HEALTH)
ADMINISTRATION)
)
EMERGENCY EVACUATION)

Place: Pittsburgh, Pennsylvania

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AB33-HEAR-4

TRANSCRIPT OF PROCEEDINGS

Date: February 13, 2003

HERITAGE REPORTING CORPORATION

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Hyatt Regency
Pittsburgh International Airport
1111 Airport Boulevard
Pittsburgh, Pennsylvania

Thursday,
February 13, 2003

The parties met, pursuant to the notice, at
9:01 a.m.

BEFORE: MODERATOR MARVIN J. NICHOLS, JR.
Director of the Office of Standards,
Regulations and Variances
Mine Safety and Health Administration

PARTICIPANTS:

WILLIAM BAUGHMAN

WILLIAM CROCCO

JOHN GALLICK

JENNIFER HONOR

JAMES LAMONT

CARL LUNDGREN

TIMOTHY HROBLAK

HARRY POWELL

Heritage Reporting Corporation
(202) 628-4888

(9:01 a.m.)

3 MR. NICHOLS: Bill, come on up with the sign in
4 sheet. Good morning, everybody. I'm Marvin Nichols. I'm
5 the Director of the Office of Standards, Regulations and
6 Variances for the Mine Safety and Health Administration.
7 I'll be the moderator for today's public meeting. On behalf
8 of our Assistant Secretary, Dave Lauriski, I want to welcome
9 all of you here today. Let me introduce my other colleagues
10 here.

11 Carl Lundgren, Carl is an economist in my office
12 Arlington. Bill Crocco, Bill is the Chief of the Accident
13 Investigations, he's the program manager for Coal Mine
14 Safety and Health. Bill Baughman is a reg specialist in my
15 office Arlington and Jennifer Honor is our solicitor.

16 This is the last of four public hearings we've had
17 scheduled on this rule. The previous hearings were last
18 week in Lexington, Kentucky; Grand Junction, Colorado. On
19 Tuesday of this week we were in Charleston, West Virginia,
20 and as I said this is the last of four.

21 The purpose of these hearings is to obtain
22 comments from interested members of the mining community on
23 the proposed rule for emergency evacuations. We will use
24 these comments to determine the best way to assure that
25 underground coal miners will be protected during mine

1 emergencies. The initial announcement of these four rule
2 making hearings was published in the Federal Register on
3 December 12, 2002, and there's copy of that Federal Register
4 notice on the desk in the back if you'd like to pick up a
5 copy.

6 The proposed rule that is the subject of these
7 hearings is identical to the emergency temporary standard
8 published on December 12, 2002. The proposed rule would
9 establish requirements for mine evacuations in response to
10 mine fires, explosions and gas or water inundation
11 emergencies.

12 Let me give you some background on what led us
13 here today. Under Section 101(b) of the Federal Mine Safety
14 and Health Act of 1977, the secretary has authority to issue
15 an emergency temporary standard if it is determined that
16 miners are exposed to grave danger from exposure to
17 substances or agents determined to be toxic or physically
18 harmful or to other hazards and that such emergency standard
19 is necessary to protect miners from such danger.

20 On December 12, 2002, MSHA issued an emergency
21 temporary standard in response to the grave dangers which
22 miners are exposed to during mine fires, explosions and gas
23 and water inundation emergencies. The recent deaths of 14
24 miners at two underground coal mines punctuates the need for
25 MSHA to address proper training and mine emergency

1 evacuation procedures. The emergency temporary standard was
2 effective immediately upon publication and is effective
3 until superseded.

4 Under the Mine Act the secretary shall have nine
5 months from date of publication of the emergency standards
6 to promulgate a mandatory health or safety standard which
7 will supersede the emergency temporary standard. By law the
8 emergency temporary standard also operates as a proposed
9 rule. That proposed rule is the subject of this rule
10 making. We're here today to receive comments on MSHA's
11 proposed rule for emergency evacuations and to get your
12 impressions on how the regulations have worked since it was
13 issued on December 12, 2002.

14 The major provisions of the proposed rule would
15 require: 1) Operators of underground coal mines would
16 designate for each shift that miners were working
17 underground a responsible person in attendance at the mine
18 to take charge during mine fire, explosion, and gas or water
19 inundation emergencies. 2) The designated responsible
20 person must have current knowledge of various mine systems
21 that protect the safety and health of miners. 3) The
22 responsible person must initiate and conduct an immediate
23 mine evacuation where there is a mine emergency which
24 presents an imminent danger to miners due to fire, explosion
25 or gas or water inundations.

1 4) Only properly trained and equipped persons who
2 are necessary to respond to a mine emergency may remain
3 underground. 5) The existing requirements for a program of
4 instruction for fire fighting and evacuation would be
5 expanded to address not only fires, but also explosions and
6 gas or water inundation emergencies. 6) Part 48 training
7 requirements would be revised to reflect that the annual
8 refresher training includes a review of mine fire, explosion
9 and gas or water inundation emergency evacuation and fire
10 fighting plans in effect at the mine.

11 Prior to the start of the public hearings MSHA
12 received several comments on the proposed rule. One
13 commenter recommended that we expand coverage of the rule to
14 include metal and nonmetal mines. Another commenter
15 supported portions of the rule, but felt that some portions
16 were ambiguous and allowed MSHA too much leeway to second
17 guess operator decisions on whether to evacuate. Finally,
18 the commenter felt that the proposed rule fosters the idea
19 that the first step in a mine emergency is always to
20 evacuate the mine.

21 The remaining two commenters offered a series of
22 suggestions on how to improve the proposed rule. We've
23 posted all of these earlier comments on the website and we
24 intend to publish the transcript of these four public
25 hearings on the website. In fact, the hearing in Lexington,

1 Kentucky was posted on the website yesterday. The issues
2 surrounding safety and health for miners are important to
3 MSHA. We'll use the information provided by you and all the
4 commenters to help us decide how best to proceed through
5 this rule making.

6 These four hearings will give mine operators,
7 miners and their representatives and other interested
8 parties an opportunity to present their views on the
9 proposed rule. The format for this public hearing will be
10 as follows:

11 Formal rules of evidence will not apply and this
12 hearing will be conducted in an informal manner. Those of
13 you who have signed up to speak today will make your
14 presentations first. After all the scheduled speakers have
15 finished others can request to speak. When the last speaker
16 is finished we will conclude the public hearing. If you
17 wish to present any written statements or information today,
18 please clearly identify your material. When you give it to
19 me, I'll identify the material by the title submitted. You
20 may also submit comments following the meeting. If you
21 choose to do that, submit them to MSHA by February 28, 2003,
22 which is the close of the posthearing comment period.

23 Comments may be submitted to MSHA by electronic
24 mail at comments@MSHA.gov or by fax at 202-693-9441 or by
25 regular mail or hand delivery to MSHA, Office of Standards,

1 Regulations and Variances, 1100 Wilson Boulevard, Room 2352,
2 Arlington, Virginia. A verbatim transcript of this public
3 hearing will be available upon request. If you want a
4 personal copy of the meeting transcript please make
5 arrangements with the court reporter or you may view it on
6 MSHA's website as soon as we get it posted.

7 The procedures, well, since this is the last
8 hearing I won't go into the procedures for the previous
9 three. We'll begin by the persons who have requested to
10 speak. When you come up to speak, please clearly state your
11 name and spell it for the court reporter and tell us who
12 you're affiliated with. Our first speaker today is John
13 Gallick with RAG Emerald Resources.

14 MR. GALLICK: Ready, Marvin?

15 MR. NICHOLS: Yes, I'm ready.

16 MR. GALLICK: Okay. First, my name is John
17 Gallick, G-A-L-L-I-C-K. I'm the safety manager for RAG
18 Emerald Resources LP, and affiliate of RAG American Coal
19 Holding, Inc. I refer to RAG Coal Holding's written
20 comments to the standard for my company's overall position
21 on this standard. I am here to speak about this rule as it
22 impacts RAG's Pennsylvania operations, the Emerald and
23 Cumberland mines.

24 Emerald Mine No. 1 is a Pittsburgh Coal seamed
25 long wall mine employing approximately 540 people. The

1 operation produces approximately six and a half million
2 clean tons of coal per year and the Cumberland Mine,
3 basically, it mirrors Emerald in both employment and
4 production. I have approximately 25 years of safety
5 experience in the underground mining industry with
6 involvement in several mine emergencies.

7 I've also studied in detail numerous other
8 emergencies as part of my safety job. With this background
9 in mind I truly support the goal of more training of mine
10 personnel in handling mine emergencies and the desire to
11 improve the handling mine emergencies at the mine site. I
12 regret to say, however, that my analysis of these rules is
13 that they are flawed to the extent that I do not believe
14 they will accomplish these intended goals. In fact, I
15 believe the flaws are so severe that much of the impact of
16 30 CFR 75.1500 would be in citation arguments and litigation
17 without any appreciable improvement in safety for the
18 miners. This is surely not the intent of these standards.

19 My reason for this opinion are as follows: First,
20 the use of words and phrases throughout the standard without
21 clear definitions is a concern of mine. The first word
22 phrase is responsible person, the regulation implies that
23 the responsible person is to be identified by the actual
24 name of the person yet the question and answers provided by
25 the agency states that this can be handled by job title. At

1 Emerald we have designated the shift foreman, his designee
2 if he is off work, and the outby foreman if the shift
3 foreman cannot be immediately contacted as a responsible
4 person. I believe this is a logical progression, well
5 understood and in line with the intent of these regulations.

6 I don't know at this point, however, if this plan
7 is in compliance with the regulations as presently written.

8 First, the name of the responsible person, per se, is not
9 important. Miners will act on the information given to them
10 by whomever delivers that information. For example, we
11 operate with a surface computer room operator and a shift
12 foreman for all three shifts. We have some workers who due
13 to early starts and after shift overtime actually spend a
14 portion of their time underground with all three different
15 shifts.

16 It is impractical to expect us to notify each of
17 these workers when a change has been made in the name of the
18 shift foreman or responsible person. Surely the intent of
19 the rule is that the responsible person knows his
20 responsibilities and the communication conduit. In our
21 case, a computer room operator knows his responsibilities.
22 It's not the name that's important to the workers, it's the
23 actions that person takes. The standard, in my opinion, is
24 misdirected. It's not really as important that each worker
25 know who the responsible person is, it's that the surface

1 attendant, regardless of whether he's a CO room operator or
2 warehouseman, knows who that responsible person is.

3 Second, the preamble notes that the responsible
4 person needs to be at the mine to take charge. In principle
5 I agree that this is a correct procedure. However, the
6 responsible person's actions can and should be augmented by
7 many other people. For example, the responsible person does
8 not need to initiate an evacuation. Other persons, in our
9 case the computer room operator, can begin an evacuation to
10 a safe area based upon the information available to him.
11 Further, other management people either at the mine or at
12 home can add to that responsible person's decision making
13 power.

14 Remember, in today's operations it is not unusual
15 to have almost instant contact with other management people.
16 These people have an obligation to involve themselves in an
17 emergency which may include taking control of some aspects
18 of that emergency. It's important for the regulation to
19 clearly account for the fact that other persons besides the
20 responsible person can give orders for evacuation.

21 Third, the regulation notes that the responsible
22 person will have current knowledge of the assigned locations
23 and expected movements of miners underground. The agency
24 must further define this statement or it will become a bone
25 of contention between inspectors and operators. Mines the

1 size of Emerald employ up to 100 people underground per
2 shift, excluding people working on overlapping shifts.

3 The responsible person will at the preshift
4 meeting have a clear layout of where people are being
5 initially assigned to work. However, some mechanics,
6 general laborers, beltman and certified people will move
7 around. The responsible person may well know where their
8 expected movements are, but not necessarily anything more
9 exact. It's important to note here that the responsible
10 person will clearly have the exact locations of the large
11 majority of the shift and certainly will have their
12 initially assigned locations.

13 Fourth, 75.1501 states that the responsible person
14 will have current knowledge. What exactly does the agency
15 mean by knowledge? The responsible person should know the
16 basic ventilation system direction of air, for instance, but
17 he cannot be expected to know all the nuances of the
18 elaborate ventilation system. This holds true for the
19 remainder of the terms that the responsible person is
20 charged with knowing.

21 It would be more accurate to use the phrase
22 generally knowledgeable. This is particularly valid since
23 many, if not most, mines in today's mining business have
24 employees underground working 365 days per year. That means
25 there are several support persons that will be the

1 responsible person. The responsible person and the
2 substitute responsible persons will certainly be generally
3 knowledgeable, but not to the levels of the experts in each
4 of those areas stated in 75.1501(a).

5 Fifth, I'd like to critique 75.1501(b) in it's
6 entirety. The terms used in this regulation will certainly
7 lead to misunderstandings and disagreements as to what is
8 intended in this section of the regulation. I'm quoting,
9 "An immediate mine evacuation is to be conducted when there
10 is a mine emergency which presents an imminent danger."
11 That's a quote from 1501(b). In a discussion about mine
12 emergencies this phrase seems to be logical, but applied to
13 a real mine emergency this phrase, in my opinion, is flawed.

14 For example, in a training session I asked almost
15 every foreman at the mine to consider what actions they
16 would take if they were the responsible person and a fire
17 was reported on the section belt line. Would they consider
18 the situation to be an imminent danger? Almost to a person,
19 they said the section crew and anyone working in by that
20 fire were in imminent danger and needed to be alerted to get
21 out by the fire site immediately.

22 Once out by the fire site, the foreman said the
23 imminent danger to that crew would then dissipate and they
24 could then begin fire fighting activities with that crew and
25 that would be their primary concern at that point. Other

1 people throughout the mine would need to be alerted by them
2 and then either begin adding to the fire fighting effort,
3 handle supplies that were needed for any emergency or
4 evacuated if unneeded.

5 I believe these foreman would be acting
6 responsibly, but they as presently written would be in
7 violation of 75.1501(b). It seems apparent that the phrase
8 immediate mine evacuation is driven by the Jim Walter's
9 tragedy. This language does not fit many other types of
10 emergencies. I am unsure actually what the current rule
11 would require. As I read it, the responsible person would
12 be required to conduct a mine-wide evacuation whenever he
13 determines an imminent danger existed regardless of the
14 limited nature in that emergency.

15 Further, if the imminent danger or perceived
16 danger is corrected, for example, the fire is out. I am not
17 sure that this regulation provides for a stopping of an
18 evacuation. A better rule would state that, "People in the
19 affected area of a mine emergency will be evacuated to an
20 outby location. The responsible person will determine based
21 on the facts he receives how to assign people to handle that
22 mine emergency." This or similar language will make it
23 clearer that the evacuation from an affected area should be
24 the first priority and should be initiated by whomever
25 received the initial call of that emergency. Once the

1 people in danger are directed to a safe location then
2 whatever activities are necessary to respond to the mine
3 emergency can be directed by the responsible person.

4 Sixth, the phrase only properly trained and
5 equipped needs to be clarified. I've heard this interpreted
6 as needing a gas detector in event of traveling into an area
7 with a ventilation eruption or being trained in fire
8 fighting to fight a fire. These are logical
9 interpretations, but I am afraid that people will interpret
10 the need for properly trained and equipped to include mine
11 rescue or fire brigade specialists rather than workers who
12 have been trained under fire drills to fight basic fires, et
13 cetera.

14 The agency needs to rewrite 75.1501(b) to reflect
15 that emergencies can be of many different varieties. Fires
16 require escape to out by the fire zone and then a quick
17 immediate fire fighting approach. Explosions or other
18 ventilation interrupting events require a slower more
19 methodical approach. Clearly, the responsible person needs
20 facts to determine the appropriate response to specific
21 emergencies.

22 As presently written 75.1501(b) relies upon a hair
23 splitting determination that a fire may not be an imminent
24 danger. Therefore, an immediate mine-wide evacuation is not
25 called for. Possibly this regulation should state that if

1 the responsible person, when presented with the information
2 of a mine emergency, should first assure the evacuation of
3 people to a safe area. If the responsible person determines
4 that the emergency presents a hazard to the entire mine,
5 then an immediate mine-wide evacuation should be ordered.
6 All nonessential people should be ordered to evacuate during
7 any mine emergency. Nonessential persons must be determined
8 by the information available during that emergency.

9 Seventh, I presented a proposed language change
10 above that evacuation should be initiated. I believe this
11 is clearer than the present language of initiate and
12 conduct. The responsible person can order an area or the
13 entire mine for that matter evacuated. I don't believe you
14 can initiate and conduct an evacuation.

15 The responsible person cannot be expected to
16 contact all employees underground in the event of imminent
17 danger. He'd be one person among many who may be able to
18 make a decision to evacuate the mine or an entire area of
19 the mine. Once a decision to evacuate the mine or a portion
20 thereof has been made the responsible person must be able to
21 delegate the actual notification of all miners to other
22 competent people.

23 Next I wanted to comment on the compliance
24 assistance guide questions and answers. As previously
25 stated, according to the questions and answers a job title

1 is acceptable. This needs to be clarified in the actual
2 regulation. I suggest that the provided service attendant
3 knows the persons name of who is the responsible person then
4 the job title is sufficient for the intent of this
5 regulation. I think it's important to remember that people
6 will react to a call or act by a call to act by whomever
7 notifies them about the emergency.

8 The responsible person designation is important to
9 control actions after the initial alert and/or evacuation.
10 I have a significant problem with the answer to the question
11 concerning the responsible person having "ready access to
12 communications which would be necessary for any responsible
13 person to be able to initiate and conduct an immediate
14 evacuation." This type of answer has already led to
15 inspectors questioning time limits for the surface attendant
16 to make contact with the responsible person.

17 As I stated earlier, the initial orders to
18 evacuate an area does not need to be by the responsible
19 person. Clearly, initial evacuations should begin as part
20 of a mine emergency plan to move people from inby emergency
21 to a point outby emergency. I don't believe the intent of
22 this regulation is to limit a responsible person's duties by
23 distant and time from a telephone, but if that is the
24 agency's intent it surely is not written in the actual
25 regulations.

1 Finally, I'd like to comment on the revision
2 required in our fire fighting and evacuation plan. There
3 were 16 questions put out on the internet concerning this
4 plan. These were put out to consider and as suggestions and
5 guidance. Clearly, the questions can help an operator as a
6 training guide for a table top exercise, et cetera, but
7 these types of open-ended questions should not be used as a
8 benchmark for a plans approval.

9 I submitted a plan for Emerald mine that does not
10 necessarily address each of these questions. In my opinion,
11 the plan does not need these items that I did not address.
12 I have concerns that I will not get my plan approved unless
13 I meet the 16 questions. I don't believe that is an
14 appropriate way to handle a regulation and a plan approval.
15 In the ideal world all plans would be developed and
16 implemented to help an operation perform its tasks safe and
17 more effectively. We all recognize in the real world plans
18 are postincidence, citation catchers and second guessing
19 tools.

20 For example, I'm aware of a fire fighting plan
21 that included the evacuation of unnecessary people in an
22 event of an emergency. Obviously, just about every plan
23 will have language similar to this. Yet, when an emergency
24 turned out to be of a minor nature and the evacuation was
25 halted, questions were raised. Since the plan did not state

1 that the plan could be short stopped the issue became the
2 wording of the plan rather than the proper response taken by
3 the person in charge. That is not what we really want in
4 mine safety. The mine emergency plan checklist should be
5 what is required in the regulations under 75.1501 and 1502,
6 not other items developed after regulations were published.

7 Finally, 75.1502(a)3 requires our plan to include
8 rapid assembly of rescue apparatus. I have questions about
9 this. Does this mean that during drills the equipment
10 assembly must be included? Considering that most mines are
11 covered by off-site mine rescue teams, would these teams
12 need to be activated as a part of a training drill, could
13 they be activated only in a separate plan to ensure that
14 your communication system is accurate. I don't know what
15 that means, but I am concerned that it will cause a problem
16 for plan approval and for emergency drill guidelines.

17 In conclusion, the agency's concern that the
18 operators develop plans and programs to train people to
19 implement them is a lot of bull. I don't believe that the
20 actual regulations as presently written will achieve the
21 goals intended and need to be modified. Thank you.

22 MR. NICHOLS: Thank you, John. Do you have any
23 questions, Bill?

24 MR. CROCCO: John, the way you talk about the
25 responsible person are you recommending that there be one

1 responsible person with one or two alternates and that one
2 of them be at all time available to the surface
3 communications operator, is that what you're recommending?

4 MR. GALLICK: No. I'm saying that there needs to
5 be a responsible person depending on the size of the
6 operation. For instance, our size people need to know that
7 they have duties in a mine emergency even though they aren't
8 the directly designated responsible person. In our case, we
9 term people shift foreman in charge of the whole shift and
10 an outby person is in charge of the workings, the haulage,
11 et cetera, he's our backup.

12 What I'm saying is both of them need to understand
13 their duties would be that if the responsible person is away
14 from, that the shift foreman isn't going to return or
15 whatever, that the next person then begins to take charge
16 and handle things. What I'm clearly saying though and this
17 is where I think we're going backwards, it doesn't matter
18 who the responsible person is designated for the initial
19 evacuation. The immediate evacuation from inby in an
20 emergency should be initiated by whomever gets the call.
21 They don't need to contact the responsible person to make
22 that first step.

23 The responsible person or his designees core job
24 will be to develop the secondary plans. What are you going
25 to do, is this a fire, am I going to fight the fire, do I

1 have equipment coming, that type of thinking, but the
2 initial evacuations using my example of the belt fire in a
3 section, whoever would call out that we have a fire on the
4 belt, the outside surface person or whoever gets that call
5 whether it be a warehouseman or a CO monitor, room monitor
6 needs to get a hold of the inby people and get them
7 evacuated. They're the people in critical risk.

8 The responsible person needs to assure that that
9 has happened, but after that his goals are broader and I
10 think when I read the rule and I look at the actual plans of
11 a large mine I see that it's written as if this one person
12 is going to make all the decisions. When, in fact, I see
13 the decision making tree of a large mine to be in the hands
14 of multiple people. More difficult than a smaller operation
15 in some respects, yes, but clearly that's just the way it
16 has to be.

17 MR. NICHOLS: I don't know how you can read that
18 into that rule. We tried to make it clear that anybody
19 could initiate an evacuation.

20 MR. GALLICK: Marvin, I agree with 1501(d) that it
21 says that anyone can initiate the evacuation. What I'm
22 concerned about is the subtleties after that initial call.
23 We tell our people that the inby area is obviously the
24 affected area and they need to be moved out of there, but
25 the subtleties after that initial call seem to me to go to

1 the responsible person by your rule. Where, in fact, a lot
2 of the next decisions can be preplanned and moving forward
3 without his direct involvement. I guess that's where I am
4 concerned.

5 MR. NICHOLS: You had a fire fighting escape and
6 evacuation plan in effect for 30 years probably.

7 MR. GALLICK: Yes, sir.

8 MR. NICHOLS: Have you had any trouble with MSHA
9 with that?

10 MR. GALLICK: Frankly, only on, well fortunately,
11 at Emerald not on postreview of an incident, fortunately, we
12 haven't had any, but postreview of complaints the words then
13 become twisted around the axle. Things you think are clear
14 become less clear and that's my concern about any plan I
15 write.

16 MR. NICHOLS: Okay. You're looking very deep into
17 this reg. Let me tell you what the reg was intended to do.

18 MR. GALLICK: That's what I was hoping I'd hear.

19 MR. NICHOLS: The reg was intended to cause people
20 to evacuate a mine, not stay too long to try to fight a fire
21 or to also include explosions or gas and water inundations
22 in your evacuation plan. I mean people are getting killed
23 after the initial explosion. You need to evacuate the mine.
24 It never was intended to change current practice and I
25 don't know how you read that you have to evacuate the mine

1 any time there's an imminent danger.

2 I think we clearly said an imminent danger was
3 fire, explosions, gas or water inundations. Now, if you
4 have not had trouble with your fire fighting plan, you
5 shouldn't have any trouble under this rule with the example
6 you used. All we intended to do was update the current fire
7 fighting and evacuation plan to include those other
8 situations/explosions. We had assumed all along that people
9 would understand that fire fighting and evacuation plans
10 meant explosions, gas or water inundations, but we keep
11 getting examples of where people just stay in the mine too
12 long.

13 MR. GALLICK: Well, my concern, let me start from
14 the beginning. I hear what you're saying and I appreciate
15 as two people, if you and I were sitting in a room
16 discussing a plan I believe we'd reach the same conclusion.
17 We have a mutual understanding of what the plan means. I'm
18 afraid once it gets into postaccident review that the hair
19 splitting then becomes my concern. I've got a lot of scars
20 over my years in this business.

21 The other part, getting to your first part, I
22 don't like the language that says, and I can quote it here
23 and pull it out, but the mine evacuation in an imminent
24 danger, I believe, that the layman would declare and rightly
25 so, would declare any belt fire and anybody in by the fire to

1 be in imminent danger until there outby it. Our CO plans
2 always have said that because, as you know, our CO
3 monitoring plans always say that if you have an alarm you
4 evacuate to outby the alarm. With the understanding then
5 that you can become a fire fighting team or whatever the
6 issues are.

7 I think that language just needs to be cleaned up
8 to say that you evacuate from the area of the imminent
9 danger and then secondarily you make an analysis of that
10 issue whether it's a fire, let's say now, and then from that
11 point either you continue evacuating, you fire fight or do
12 other things, whatever actions that's where a responsible
13 person earns his title is that second step. That's all I'm
14 saying.

15 The first step is to get everybody out by that
16 zone where the responsible person comes into play, he or his
17 designate, is that second stage which is we're going to
18 fight this, we're going to retreat from this, we're going to
19 do whatever we're going to do. That's what I'd like to see
20 the language say in some way or another.

21 MR. NICHOLS: I think you would agree though if
22 you've had an explosion you ought to evacuate the mine.

23 MR. GALLICK: Yes.

24 MR. NICHOLS: That's something that has affected
25 the ventilation.

1 MR. GALLICK: That's what I said. I tried to make
2 that clear that I look at ventilation eruptions as slow
3 methodical approaches. By that I mean this, I don't want to
4 use actual. I'll make for example, if you have an explosion
5 in which overcasts are damaged, ventilation controls are
6 damaged, clearly, you need to get the power off, you need to
7 get people evacuated, but if you're missing people you may
8 make a decision that I need to go in to do certain things.

9 Now that needs to be done under somebodies
10 direction and in a slow methodical manner. That is high
11 risk business, just like mine rescue is high risk business.
12 We know that, but that's my only caveat there. Under most
13 circumstances any time you have ventilation disruptions the
14 unknowns overwhelm the knowns I guess is all I'm saying. So
15 I guess I agree with you, just with the caveat that if I'm
16 missing people that responsible person has to have some
17 flexibility to decide what he needs to do and frankly it may
18 be to do nothing other than evacuate.

19 MR. NICHOLS: Well, the standard was intended to
20 be a simple common sense approach to including these other
21 issues in your current plans, have somebody make a decision
22 early in the game as to whether to evacuate the mine.

23 MR. GALLICK: I don't disagree with the concept.
24 I will say this that, well, as you said we've all had fire
25 fighting plans. We've all had explosions. Well, I

1 shouldn't say everybody, but most places certainly have had
2 explosion plans relative to pulling power and evacuating and
3 setting up command centers, et cetera. Obviously, when
4 rules come out like this it forces you to go back and look
5 harder at what you're doing and adjust it.

6 Like I said, from a training aspect I don't
7 disagree at all from a training aspect. My concern is, as I
8 said earlier in my testimony, citation grabbers. I don't
9 want to get into arguments over words, battles over minutes,
10 where I believe the intent of the agency and the intent of
11 the operator is to have people trained and work with a
12 working plan to do the best they can to protect employees
13 and the property of the mine. I guess just too many years,
14 I guess, maybe I'm getting too cynical, but I've seen too
15 many of these things just turn into regulatory battles, I
16 mean litigation battles. I don't want any more of them if I
17 can avoid it.

18 MR. NICHOLS: I understand that, but looking back
19 I think the agency, the industry, the whole community has
20 done a good job with mine rescue. Where there seems to be a
21 failure is in the initial decision making. Once you get
22 people out of the mine you'll have more well-trained, well-
23 equipped people show up to participate in the emergency, but
24 just staying underground too long is what's causing the
25 problem.

1 MR. GALLICK: I guess that's where I'm saying that
2 training of the responsible persons and others is a real
3 positive thing. You know I think we all tend to make some
4 assumptions sometime that people know more about things than
5 they do and I use the term table top exercise for those 16
6 questions. When we did some of those it gets people
7 thinking and asking questions and will make them a better,
8 I'll say better responsible person, but a better supervisor
9 is really what they are and you know I don't have a problem
10 with that part of it. I just wish I could think of better
11 words to make my issues and yours blend together.

12 MR. NICHOLS: Well, that's our job. We'll take
13 your comments, but the way this rule making works is for the
14 emergency temporary standard is the writers of the statutes
15 doesn't expect that every question would be answered when
16 you issue the initial rules. That's why they put in the
17 nine month rule making process and the emergency temporary
18 standard would serve as that proposed rule.

19 Now what we'll do is take all the comments we get
20 from all four public meetings and the additional comments we
21 get and we will address all of those. You know we've got a
22 number of comments that deal with transportation and
23 communication. We've got a series of comments from you.
24 We'll either adopt those or adopt them in part or reject
25 them, but we'll explain in the preamble what we meant. You

1 know maybe an example is you were talking about imminent
2 dangers.

3 MR. GALLICK: Yes.

4 MR. NICHOLS: We'll need to explain further what
5 we're talking about and we'll do that. So we appreciate
6 your comments, John. Any more questions, Bill?

7 MR. CROCCO: Yes, I'd like to ask you about a
8 couple of other things. You didn't talk about, but just
9 whether you have an opinion on them. One is a secondary
10 communication system such as a PED. Do you think that
11 that's something that ought to be a requirement as part of a
12 safety rule.

13 MR. GALLICK: I don't know a lot about a PED. I
14 know what I've read and strictly start with that. You know
15 I have to qualify that. I know how they are supposed to
16 work. What I don't know is how effective they are relative
17 to time and distance and dead spots, et cetera. I do think
18 that if, I'm just telling you not to write more regulations,
19 but I'll throw in that I'm going to tell you that if you
20 want to get into communications, I guess you really need to
21 look at 1600 and redo 1600, you know, rather than putting it
22 in under 1500.

23 We happen to have two communication systems plus a
24 CO monitoring system at the mine, but the secondary system
25 is not available to everybody, the walkie-talkie radio type

1 things. There are dead spots. There are areas that you
2 can't hear from. You know all those qualifiers go into any
3 thought of it.

4 I guess I look at it from a safety guy with a risk
5 analysis. To some extent we minimize the risk of somebody
6 not being in touch. For instance, our responsible person,
7 his back up, carry a radio. If the radio system is working,
8 in other words, you know it's in play than that adds more
9 chance that they will be able to be contacted, but there's
10 no guarantee of that. If they're in a return or belt line
11 there's dead spots or you know like any other system.

12 The PED has an advantage, I guess, that I've heard
13 anyway from other people that it has a better track record
14 of being able to work, you know, throughout a larger area of
15 the mine, but I understand if there's an interference
16 problem one of the vendors told me that, for instance, the
17 system we use is incompatible with a PED. We use a leaky
18 feeder cable for communications and he tells me that the
19 antenna has something to do with frequencies and he lost me
20 about half way through that conversation, but that there
21 would be interference problems.

22 Secondly, obviously the PED is a one way
23 communications. It's a plus that you let people know that
24 they have a problem, but you don't know whether they are
25 doing anything. You don't know whether they're evacuating

1 via the intake escape way, whether they're planning on
2 fighting this fire, you know, in other words you can make
3 the assumption that they got the message, but you're still
4 stuck with that terrible feeling in the pit of your stomach
5 is are they, in fact, doing what they need to do.

6 I know it's a long answer to a short question, but
7 I would say that if we want to look at multiple
8 communication systems we need to go back at 1600 and look at
9 revising those regulations through a normal proposed rule
10 process.

11 MR. CROCCO: We had some earlier comments saying
12 it's very difficult, almost impossible, to evacuate a large
13 mine unless there's transportation maintained up on the
14 working sections while miners are up there working and that
15 ought to be a part of this rule, is that man trips or means
16 of transportation ought to be maintained. Would you have
17 any thoughts on that.

18 MR. GALLICK: I guess just as a general matter I
19 think it's a good rule of thumb to have transportation
20 available in the section somewhere. Our normal, at the mine
21 for instance, the normal, I'll say normal policy is to have
22 a man trip available when people are on the coal producing
23 sections and normally at the end of the track. When I say,
24 I used normally a couple of times for reasons that we're a
25 three entry system.

1 When they bring supplies up to the end of the
2 track they have to take the man trip, pull it down and park
3 it in some other switch. That switch could be 10, 20 blocks
4 away from the face. From my perspective that's still okay,
5 but if that was, you know, if there was a regulation or
6 something to that effect that type of flexibility would have
7 to be blended in.

8 You know, so I guess a rule of thumb is that there
9 is typically there is community, I would suspect in most
10 mines typically there is some type of haulage transportation
11 at the section or near the section, as just a rule of thumb.

12 I don't know which mines someone is referring to or their
13 specific circumstances, but the mines I've been around
14 typically you have a vehicle in the section somewhere. Any
15 other questions?

16 MR. CROCCO: That's all I have.

17 MR. NICHOLS: Well, you raised a good point about
18 the rule making process. You know this rule was designed to
19 deal with a designated person updating escape evacuation
20 plans and also updating training plans. We'll have to
21 decide if some of this other stuff fits in the scope of this
22 rule making or it does or does not. The lawyers will help
23 us with that, but I think I'll go back and tell Lauriski
24 that you recommend further rule makings, that's a first from
25 industry.

1 MR. GALLICK: I figured I was saying that I would
2 take a beating in the next meeting on that, but I just like
3 if you're are going to deal with communications deal with
4 the whole 1600 if you're going to deal with it. Frankly,
5 you know, I didn't say this in my testimony, but if we're
6 going to deal with 1500 escape way drills comes under 380
7 something that it ought to, in my opinion, I understand you
8 made an emergency standard so you don't get into all these
9 side issues. All that would be much better under one
10 training standard whether it be under the 48 part or under
11 the 1500 part instead of having to grab them out of
12 different parts of the rules.

13 You know I look at the rule of you do fire drills,
14 of course, that's now under 1500 under mine emergency
15 drills. I do escape way walks under 380 something or other
16 and that still stands alone where as logically those two
17 ought to be under the same rule. I'm not saying to change
18 the numbers and, you know, the circumstances of them, but if
19 you have a chance to put things under the same rule it sure
20 makes it easier to understand.

21 MR. NICHOLS: I think that's in someone's written
22 comments that we received from someone.

23 MR. GALLICK: I don't think that was in mine.

24 MR. NICHOLS: Okay, John, thanks.

25 MR. GALLICK: You're welcome.

1 MR. NICHOLS: The next presenter will be Jim
2 Lamont with the United Mine Workers.

3 MR. LAMONT: Good morning.

4 MR. NICHOLS: Good morning.

5 MR. LAMONT: My name is James Lamont, L-A-M-O-N-T.

6 I'm an international representative with the United Mine
7 Workers of America. As you are aware the Mine Safety and
8 Health Administration has issued a temporary emergency
9 standard regarding evacuations in the event of a mine
10 emergency. The agency announced this decision on December
11 11, 2002, in Brookwood, Alabama, in conjunction with the
12 release of the report on Jim Walter Resources No. 5 Mine
13 disaster. The agency made clear the standard was
14 implemented in response to the events of September 23, 2001.

15 The United Mine Workers of America is concerned
16 that this action does not adequately address the problems
17 miners face should an emergency situation arise.
18 Additionally, the emergency rule fails to address
19 improvements in addition to mine emergency response
20 identified during the disaster investigation which are in
21 need of regulatory action. The unions review of the
22 emergency standard and the current language in the
23 appropriate sections of 30 CFR found the following changes
24 have been made:

25 "Part 48.8 Annual refresher training of miners;

1 minimum courses of instruction; hours of instruction" was
2 amended to require a review of roof and ground control
3 plans, procedures for controlling and maintaining
4 ventilation and the mine emergency and evacuation plan as a
5 part of miners training. MSHA's commentary on the rule also
6 indicates that training on the new emergency evacuation
7 procedures under Part 48 does not have to be conducted by an
8 MSHA approved instructor.

9 That, however, conflicts with Part 48.4 which
10 specifies training is to be by approved instructors.
11 Training on the emergency evacuation procedures are not
12 specified for task or hazard training. On training when the
13 act was implemented in 1977 and then Part 48 was starting to
14 be complied with you had eight hours to do your annual
15 retraining in which you have today. Since that time there's
16 been many, many changes in the industry with technology,
17 additional rules.

18 You now have add to it the diesel regs, the HAZCOM
19 rule, add this evacuation rule in place and you still only
20 have eight hours to do all this training. What we have been
21 seeing, and then you know on the heels of what the events
22 that took place at Que Creek additional training should be
23 required to our monitors in this country. Eight hours does
24 not seem to be enough time to cover all this material. You
25 sit down in an eight hour time frame and it's more a brush

1 over for all the material that you have to cover in that
2 time. There's one thing I'd like to add also, I believe the
3 eight hours should be expanded.

4 Part 75.1501 emergency evacuations was added as a
5 new section. Those provisions expand on the provisions
6 contained in Part 75.1601 which requires a responsible
7 person to respond to mine emergencies. The new provision
8 require a responsible person to take charge during mine
9 emergencies. Mine emergencies were narrowly defined as a
10 fire, explosion, or gas or water inundation.

11 The new rule requires the responsible person to
12 have knowledge of the assigned locations and expected
13 movements of miners underground, the operation of the mine
14 ventilation system, location of escape ways, mine
15 communication system, any mine monitoring system used and
16 the mine emergency and fire fighting program of instruction.

17 The new rule requires the responsible person to initiate a
18 mine evacuation when a mine emergency presents an imminent
19 danger to miners from a fire, explosion or gas or water
20 inundations. Only properly trained and equipped persons
21 essential to the emergency response can remain underground.

22 It required that the operator instruct all miners
23 on the emergency rule by December 19, 2002, along with
24 informing miners of the identity of the responsible person
25 for the miners work shift and if changed miners are to be

1 informed of the identity before they start of their work
2 shift. The investigation into the Jim Walter's Resources
3 No. 5 mine disaster found a number of flaws in the fire
4 fighting and evacuation plan and several improvements were
5 made to address those.

6 While this new section contains increased
7 protection for miners, it however fails to meet the needs as
8 identified during the Jim Walter's No. 5 disaster
9 investigation. The standards do not address emergencies
10 during idle shifts, communication and atmospheric systems in
11 place during emergencies defining what a properly trained
12 and equipped person is, the equipment such as methane and
13 carbon monoxide detectors on hand for emergency responders,
14 accurate tracking of miners, designation of a responsible
15 person underground to manage the emergency, training and
16 simulation of the responsible person, expanded training for
17 those responding and availability of emergency
18 transportation.

19 The rule should not limit emergencies to those
20 identified. It should cover any emergency. MSHA has also
21 informed the industry that the responsible person is not
22 required to remain on the surface. That could quickly turn
23 an emergency response into a disaster if the responsible
24 person becomes a victim of the emergency.

25 Parts 75.1101-23 program of instruction, location

1 and use of fire fighting equipment, locations of escape
2 ways, exits and routes of travel, evacuation procedures,
3 fire drills was redesignated as 75.1502 mine emergency
4 evacuation and fire fighting program of instruction. The
5 changes in the revised section address mine emergencies and
6 mine emergency evacuation as opposed to fires and fire
7 drills. The new rule calls for mine emergency evacuation
8 drills instead of fire drills.

9 While increased drills are needed for emergencies,
10 fire drills should still be required and beefed up. The
11 rule does not specify what is required in the emergency
12 drills. They should include improved hands-on fire fighting
13 and self-contained self-rescuer training and simulated
14 emergency evacuations. Drill should also be conducted
15 during fully staffed and partially staffed shifts, which
16 would include idle shifts. Drills must also involve the
17 responsible persons.

18 Problems found with the fire fighting and
19 evacuation plan at the Jim Walter's No. 5 mine likely exist
20 in plans at other mines and the improvements made in the Jim
21 Walter's plan and those recommended should be addressed in
22 all plans to improve safety for miners. The emergency rule
23 should be changed to require those. The emergency
24 evacuation plan improvements and those recommended at the
25 Jim Walter's No. 5 are contained on pages 113 and 114 of the

1 United Mine Workers report on the Jim Walter's No. 5 mine
2 disaster.

3 Other improvements affecting both mine emergencies
4 and prevention are found on pages 112 through 123. Those
5 improvements that should be pursued through the emergency
6 rule making include: communication systems as found on page
7 114; mine-wide atmospheric monitoring which is on page 117;
8 protection of sectional electrical equipment, page 119;
9 improvements in battery design, page 119; quantity, quality
10 and distribution of methane multigas detectors found on page
11 121. The temporary rule fails to address these problems.

12 I have with me, which I will present, pages 112
13 through 123 of the United Mine Workers report on Jim
14 Walter's mine disaster. Several of the things that are
15 included in this I'd just like to touch base on them real
16 quick.

17 Found on page 112, for initial health and safety
18 improvements would be to install a leaky feeder phone
19 system, revise the fire fighting and evacuation plan,
20 install a PED emergency communication system, improve the
21 mine-wide monitoring atmospheric monitoring system, develop
22 better protection of sectioned electrical equipment, revise
23 the roof control plan, determine vertical degasification
24 options near underground roof fault areas, improve and
25 revise all examination books, provide additional training of

1 examiners including filling out books, automatic methane
2 monitors at power centers; quantity, quality and
3 distribution of methane detectors, procedures and system for
4 power removal when bad roof is reported, training of miners
5 in each new system, general retraining of miners, better
6 battery design, brattice construction of materials, existing
7 phone system improvements, CO room monitoring training.

8 These are some of the recommendations that the
9 UMWA had put forth for the Jim Walter's report and I believe
10 a lot of these could be implemented into this rule.

11 Following me there will be some UMWA representatives who can
12 speak on specifics of what happened at their respective
13 mines or knowledge of what happened at other mines and the
14 need for this emergency evacuation rule and some additions
15 which I mentioned that would really help benefit this rule.

16 As well as the emphasis that needs to be placed on
17 training of the miners. Like I had touched based on
18 earlier, eight hours, you have so much material you have to
19 cover in that time frame and you don't want your training to
20 be just a brush over. You want to have quality training for
21 these folks. People need to have, and whether it be
22 salaried or hourly folks, a clear distinct understanding of
23 the plans that are in place at the respective operations.

24 Recently, after being involved in a few incidents,
25 it was very obvious that plans are confused in peoples

1 minds. What do you do when the CO monitor system has a low
2 alarm or a high alarm? What's the first thing you should
3 do? How do react? Who do you notify? The procedures to be
4 followed, there is a lot of confusion. You know I'm seeing
5 this after reading the mine worker's report in Jim Walter's
6 that that same type of confusion occurred there. I'm sure
7 it's just not isolated incidents. I would say it's pretty
8 much throughout the industry.

9 People just don't have a clear understanding of
10 what they need to do for specific procedures. That's
11 something that needs to be drilled into their minds. The
12 only way I can see you do that is through training and good
13 quality training, having MSHA approved instructors do the
14 training. That's pretty much it.

15 MR. NICHOLS: Okay, Jim. We have that report in
16 the record. I failed to mention to start with that if you
17 want to leave your notes or any written material with us,
18 John, the same offer to you, be sure to do that.

19 MR. LAMONT: Do you still want this or you say you
20 do have it for the record?

21 MR. NICHOLS: We'll take it again. Let me say
22 something about Jim Walter's. In my time in coal mine
23 safety and health I've seen those mines evacuated safely
24 many times down there. They have a heating problem. They
25 have heating problems in those mines and would occasionally

1 have fires. They would make the decision to evacuate the
2 mines, pretty much uneventful, safely evacuate them. I
3 think the real thing that's missing in some places is just
4 the person to make the decision to evacuate after you've had
5 an explosion. Somebody needs to make the decision to
6 evacuate the mine, regroup and have a plan to deal with the
7 situation.

8 While I've seen it done safely many times, with
9 the disaster it was not managed well. So, I mean for the
10 last 30 years we've had these evacuation plans and they've
11 seemed to have worked okay once the decision was made to
12 evacuate the mine. So I hear a lot of comments about
13 needing to improve training and all that and it may be good
14 comments, but I really can't remember a lot of problems with
15 evacuation. I can remember problems with the decision to
16 evacuate.

17 MR. LAMONT: With that, I find it very difficult
18 to see just one person being in charge especially if that
19 individual is going to be underground. You take, for
20 example, if you have on your off shifts, your afternoon and
21 your midnight shift if that responsible persons underground,
22 you may be running air courses or whatever. How will
23 anybody get in touch with him? How will he respond and be
24 brought up to speed? I think you need a responsible person
25 underground and on the surface, two places, to take control

1 of this.

2 MR. NICHOLS: Well, I think you need to look at
3 situations in their totality or you know a lot of times the
4 evacuation will occur and some miner may call for an
5 evacuation and the mines evacuated without getting, you
6 know, a lot of people involved. I think what we're trying
7 to do here is set up something where nobody will make the
8 decision to evacuate. Somebody has got to take control of
9 the situation.

10 MR. LAMONT: I think Que Creek is a prime example
11 of not waiting for a designated person, a responsible
12 person.

13 MR. NICHOLS: I think that's a wonderful example.

14 MR. LAMONT: But with that too you still have to
15 have somebody who has the knowledge on the surface as well
16 as underground to call shots, to know what questions to ask,
17 to know the ventilation system, to know everything about the
18 mine, the workers, their locations, and have an idea of
19 maybe like where they would be heading to using Que Creek as
20 an example or instruct them to go to a specific area.

21 MR. NICHOLS: But I would go back to using Jim
22 Walter's as an example. I've been told many times if they
23 have a heating problem, they need to evacuate the mine,
24 things worked well with their current evacuation plan. The
25 failure was the decision not to evacuate soon enough, not

1 problems getting out of the mine.

2 MR. LAMONT: And from what I understand too is the
3 failure of communication of what actually happened. People
4 didn't know if there was an ignition of fire, if a stopping
5 blew out, if there was a cave in, there was confusion.

6 MR. NICHOLS: Okay. Thanks, Jim.

7 MS. HONOR: Thank you.

8 MR. LAMONT: Yes.

9 MR. NICHOLS: John, do you want to leave us
10 anything, your written material?

11 MR. GALLICK: No. I can --

12 MR. NICHOLS: You don't have to. We've got a lot
13 of stuff written from you.

14 MR. GALLICK: Yes, I don't think it's the end of
15 it. I have lived a little bit here and there.

16 MR. NICHOLS: Okay. The next presenter will be
17 Tim.

18 MR. HROBLAK: Yes, that's me.

19 MR. NICHOLS: I don't think you've written your
20 name clear enough for me to pronounce it.

21 MR. HROBLAK: Some how I knew that.

22 MR. NICHOLS: Yes, from the United Mine Workers.

23 MR. HROBLAK: Thank you.

24 MR. NICHOLS: Yes.

25 MR. HROBLAK: My name is Timothy Hroblak. I am

1 chairman of the Safety Committee at the Cumberland Mine, ID
2 No. 36-05018. I wanted to comment on emergency preparedness
3 and evacuation plan. The comments on the plan are the
4 official in charge should be positioned on the outside,
5 where he is not involved in underground emergency. This is
6 where he has access to CO readings, fan readings, work
7 schedules, areas where people are assigned to remote areas,
8 et cetera.

9 At an underground location he has to call outside
10 for some of this information. If an incident arises and the
11 official in charge has to delegate people to notify
12 sections, these people must identify that they are directed
13 to work for the official in charge. They must identify the
14 problem and location as to ensure the proper escape to the
15 surface. There is a lot of directions for people
16 underground who encounter a problem to have to identify what
17 the danger is, the nature of the danger and the extent, et
18 cetera.

19 Likewise, if a danger to the men is encountered on
20 the surface like a fire, fan down, et cetera, this type of
21 information must be given to the people underground to
22 ensure that they use the proper method and directions to
23 ensure a safe escape from the mine. During the time of a
24 mine emergency a lot of confusion can exist. We must try to
25 alleviate as much confusion as possible because confusion

1 costs precious time.

2 Our sections are about three or four miles
3 underground and we are now in the process of driving long
4 wall panels that are 16,000 feet long. So time and avoiding
5 confusion are of the essence. The 30 minute rule on a
6 reportable fire is an antiquated rule. If a fire burns in a
7 coal mine 30 minutes or more, you don't have to worry if the
8 fire is going to be reported. You can read about it in
9 every newspaper in the country that evening. Any
10 experienced miner will agree to that fact. All miners must
11 be properly trained so they know what they must do now.

12 Our people have pretty much been ingrained with
13 the initiative to attack a fire as soon as possible. They
14 now must be retrained to pursue escape first, then let
15 properly trained and properly equipped people, not just
16 SCSRs, fight the fire. Also if an evacuation is initiated
17 and must be followed through, we must not be turned around
18 part way out. The problem must be properly examined before
19 any people are sent back into the mine. Indecision must not
20 jeopardize miner safety.

21 I thought of additional comments, John there
22 helped me out on this. Transportation is very important due
23 to the size of our mine and the distance involved. You must
24 keep a man trip on the section. I think that's very
25 important. Also, the track distance, I think, from the face

1 is very important. The West Virginia State Law is 500 feet
2 and also under West Virginia State Law if evacuation is
3 initiated it must be followed through with. Do you have any
4 questions?

5 MR. NICHOLS: Yes. Did you say you worked at
6 Emerald?

7 MR. HROBLAK: No way. Cumberland. Yes, I work at
8 Cumberland.

9 MR. NICHOLS: Well, you guys have had evacuations
10 at the mine, haven't you?

11 MR. HROBLAK: Yes.

12 MR. NICHOLS: How did it work?

13 MR. HROBLAK: Well, you know, the way I look at it
14 if everybody gets out okay, it worked good. Yes, we've had
15 a few. I think what we need to do is, I know it's
16 impossible, but try to avoid as much confusion as possible
17 because we're getting further and further back and time is
18 always of the essence. Any confusion or any indecision we
19 can avoid is timely to help our people get out. I really
20 think that the official in charge being outside, you know
21 this is the age of computers, you know, computers,
22 electronics.

23 All the pertinent information at that time when it
24 has happened is outside. You got COs, fan readings,
25 everything is there. You know if you just walked out and

1 returned and he gets a phone call, you know, he doesn't have
2 this information at his fingertips.

3 MR. NICHOLS: In reality I bet you could call for
4 a mine evacuation, couldn't you? I mean you see a problem
5 back there and just initiate one.

6 MR. HROBLAK: Oh, yes. I wouldn't hesitate if I
7 believe I have a right.

8 MR. NICHOLS: Yes.

9 MR. HROBLAK: They can holler at me later. I
10 don't really care.

11 MR. NICHOLS: I doubt if they'd holler at you.

12 MR. HROBLAK: No, they wouldn't.

13 MR. NICHOLS: Well, where we've got evacuation
14 plans working well, again, I'll say we were trying to
15 clarify that if you have an explosion you don't hang around
16 underground.

17 MR. HROBLAK: Well, see our people, I'm going to
18 be honest with you, our people are go-getters and it's
19 pretty much, like I said, ingrained into them. If there's a
20 problem, if there's a guy hurt, they're going to go head
21 down straight ahead. I mean that's pretty much been
22 ingrained in us. It's the way we are. It's hard to change
23 that. I mean they're head down straight ahead no matter
24 what, especially in the area of a fire, emergency or
25 somebody is down. You know it's hard to try to say, wait a

1 minute you better think about your own safety.

2 MR. NICHOLS: Yes.

3 MR. HROBLAK: Anything else?

4 MR. NICHOLS: No. I don't have anything else.

5 Thanks.

6 MR. LUNDGREN: Tim, I was wondering if you could
7 spell your last name for the record.

8 MR. HROBLAK: How about pronouncing too?

9 MR. LUNDGREN: Okay.

10 MR. HROBLAK: Okay, it's Hroblak, H-R-O-B-L-A-K.

11 MR. LUNDGREN: Thank you.

12 MR. HROBLAK: In Slovak it means "bothersome
13 insect."

14 MR. NICHOLS: This hearing is going downhill.
15 Okay. Our next present is Harry Powell, UMWA.

16 MR. POWELL: Good morning. My name is Harry
17 Powell, that's P-O-W-E-L-L. I'm on the safety committee at
18 Cumberland Mine. I'm just going to make this real short and
19 sweet since I'm the last speaker and I'm sure everyone wants
20 to go to lunch. First, I would like to thank MSHA for
21 putting so much effort and thought into the preparation of
22 emergency evacuation.

23 Being involved in the fire service for a number of
24 years, I am a strong believer in preplanning. I find great
25 satisfaction and joy that MSHA and the industry at the

1 moment has placed evacuation as a top priority. Preplan and
2 training go hand in hand. Fire drills, escape way walks, I
3 would like to see on a much later scale. I would like to
4 see a total mine evacuation under relaxed conditions as
5 opposed to being stressful. This, of course, would take a
6 great deal of time and a great deal of money, but we must
7 ask ourselves as an industry is how prepared we actually
8 want to really be.

9 We have a tendency in industry to want to close
10 the door after the horse has escaped. Last, I think it
11 would be really wonderful if every miner in the country, at
12 least once in his career, would be able to take a pilgrimage
13 to the National Mine Academy in Beckley, West Virginia, just
14 to see exactly what we have either paid for by the
15 government, the state or the company, whoever. I feel this
16 is essential. That's basically all I have to say.

17 MR. NICHOLS: Okay. Any questions from anyone?
18 Thanks, Harry. Harry is the last person we had signed up to
19 speak. Is there anyone else that would like to come up and
20 speak? Is there anybody that has already been up here want
21 to come to add anything additional?

22 Okay. We'll take a break and we'll stay around
23 here until about 11:00 in case we have some late arrivals.
24 So, we'll break until about 10:30 a.m.

25 (Whereupon, a short recess was taken.)

1 MR. NICHOLS: It's 11:00. Do we have anyone else
2 wanting to speak? Okay. Remember that you have up until
3 February 28th to submit any additional written comments for
4 the record. So if we have no one else wanting to speak,
5 that will conclude the public hearing. Thanks. Thanks to
6 everybody for showing up.

7 (Whereupon, at 11:00 a.m., the hearing in the
8 above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

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DOCKET NO.: --
CASE TITLE: Department of Labor Emergency Evacuation
HEARING DATE: February 13, 2002
LOCATION: Pittsburgh, Pennsylvania

I hereby certify that the proceedings and evidence are
contained fully and accurately on the tapes and notes
reported by me at the hearing in the above case before the

Date: February 13, 2003

Joel Rosenthal
Official Reporter
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